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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/480,344	01/10/2000	KEVIN MICHAEL RUPPELT	9D-EC-19337	4210

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EXAMINER

AKERS, GEOFFREY R

ART UNIT PAPER NUMBER

3625

DATE MAILED: 09/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/480,344

Applicant(s)

RUPPELT ET AL.

Examiner

Geoffrey Akers

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Response to Amendment***

1. This action is issued in reply to applicant's Response dated 6/12/04.
2. Claims 1,7,9,13-15,17-20,22,25, 30-45 were amended.
3. Claims 1-45 as amended, are pending.

***Claim Rejections - 35 USC § 103***

4. Claims 1-3, 5-6,9-11,13-19,22-23, 25-28 are rejected under 35 USC 103(a) as unpatentable over the service Matchmaker offered by www.grainger.com(as excised from the web pages www.grainger.com dated July 1997) in view of the product-finding service offered by Design News(as described in the article "Manufacturing Marketplace opens for Business on the WWW" November 18,1996 Design News).The rejections as stated in the Non-Final Rejection(Paper # 18 ) are maintained.

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5. Claims 4,24,29 are rejected under 35 USC 103(a) as being unpatentable over then service MarchMaker offered by www.grainger.com(as excised from the web pages www.grainger.com dated July 1997) in view of the product-finding service offered Raychem(as taught in the article "Raychem intros sourcing site" Trommer, Diane, March 16,1998, Electronic Buyers' News) in view of official notice regarding e-commerce website design. The rejections as stated in the Non-Final Rejection(Paper # 18 ) are maintained.

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***Double Patenting***

6. Claims 1-13, 30-33 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-16 of copending Application No: 09/681,393. The conflicting claims are not identical but they are not patentably distinct from each other because the method of configuring a product is the same regardless of the fact that the products or the features stored in association with them are not identical.

Because the conflicting claims have not been patented yet, this is a provisional obviousness type double patenting rejection.

Claims 14-18 and 34-38 are also provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 17-29 of copending Application No: 09/681,393. Although the conflicting claims are not identical, they are not patentably distinct from each other because the system for facilitating selection of a product is the same regardless of the facts that the products are not identical.

Because the conflicting claims have not been patented yet, this is a provisional obviousness type double patenting rejection.

Claims 25-29 and 42-45 are also provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 30-35 of copending Application No: 09/681,393. Although the conflicting claims are not identical, they are not patentably distinct from each other because the system for

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facilitating selection of a product is the same regardless of the facts that the products are not identical.

Because the conflicting claims have not been patented yet, this is a provisional obviousness type double patenting rejection.

### ***Response to Arguments***

7. Applicant's arguments are not persuasive. Matchmaker is a product selection tool that guides users through [www.grainger.com](http://www.grainger.com)'s Internet based catalog through a matching product category process. This is done by choosing a particular group of products to search(receiving a product selection).The user then selects from a number of product criteria in the specification table(presenting product configuration criteria) and inserting or deleting a product configuration parameter and a selection of critical to quality criteria. The number of products that fit the particular criteria selected by the user is indicated in the text at the top of the page. As the user continues to select specifications from additional categories in the table the product matrix is updated. When the user has selected a reasonable pool of items the user can query for the list of products(matrix) that match the search criteria.

Non-functional descriptive data stored in the catalog is all that distinguishes the applicant's invention from the teachings of Grainger.The data that describes the appliances are not functionally related to the catalog/selection tool or its operation. It is well set as cited in the prior action that descriptive material will not distinguish the claimed invention from the prior art in terms of patentability.

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Additionally the features used for product selection as recited in the claims as temperature, color, energy efficiency are well known in the art of household appliances to describe air conditioners washers and dryers(Maytag.com, Whirlpool.com,Kenmore.com) and would be an obvious design choice by the catalog administrator in defining the appliance parameters. It would have been obvious to one of ordinary skill in the art at the time of the invention to store data in the fields of the catalog for a motor, lamp, etc for use in the product-finding Matchmaker system as shown in Grainger because such data does not functionally relate to the selection tool itself and merely labeling the data differently from that of the prior art would have been an obvious matter of design choice.

Similarly with respect to claims 7-8, 12, 20-21 the method of display does not have any functional effect on the selection tool itself. It has already been established that the Grainger catalog stores all relevant product data in its catalog/database. Where database columns/rows can be sorted, the manner in which the product matrix of matching items is displayed has no effect on the tool itself. These methods of display are merely a matter of design choice.

Additionally, "Manufacturing Marketplace" teaches a product finding guide. The service assists the user through a step-by-step process consisting of a series of multiple-choice questions about the desired specifications. After inputting the user's answers the finder searches the product database for matching items which are then displayed. Question and answer format is just another well-established(articles Hoffman, Jones and "Soliloquy") user-friendly means to obtain a user's desired specifications for comparison

to those of the available products in a catalog/database. It then would have been obvious to a skilled artisan to modify the system of Matchmaker to present criteria selection to the user in question and answer form as taught by "Manufacturing" to provide the user with a more user-friendly means of inputting their desired product specification.

With respect to claims 4,24,29 Raychem discloses an Internet based product selector tool that matches customer specified criteria to product descriptions in the Raychem catalog. Users can click a "compare products" link on the resulting list of products(matrix) to see a side-by-side comparison of each of the identified items, For further detail, users can click of part numbers to access data on each item individually. In both the Grainger and Raychem offer product selecting tools it would have been obvious to modify the system of Grainger to also include the ability for side-by-side comparison of products that meet user specifications as taught by Raychem to enable the customer to make a more educated purchase and evaluate all options efficiently.

### ***Conclusion***

#### **8. THIS ACTION IS MADE FINAL.**

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Questions concerning this communication should be addressed to the examiner of record, Dr. Geoffrey Akers, P.E., who can be reached between 6:30 AM and 5:00 PM Monday through Friday at 703-306-5844. If examiner cannot be reached, the superior, Mr. Vincent Millin, SPE, may be telephoned at (703)-308-1065.



9/11/04

DR. GEOFFREY R. AKERS, P.E.  
PRIMARY EXAMINER